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**UNITED STATES DISTRICT COURT FOR THE  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION**

**JOSEPH T. CENA and  
 DAWN N. HASEGAWA,**

**Plaintiffs,**

**v.**

**UNITED STATES OF AMERICA**

**Defendant.**

**No. C-06-03339-JF**

**STIPULATION AND ORDER  
 VACATING HEARING ON CROSS-  
 MOTIONS FOR SUMMARY  
 JUDGMENT AND SCHEDULING  
CASE MANAGEMENT CONFERENCE**

The parties, by and through their respective counsel of record, hereby stipulate and agree as follows:

1. The parties filed cross-motions for summary judgment which were scheduled to be heard on April 6, 2007.

2. Because the parties agreed that the decision by the Ninth Circuit in *Norman v. United States*, Docket No. 06-16741 (9<sup>th</sup> Cir. ), may be determinative of the issues raised in the cross-motions, this Court continued the hearing on the cross-motions to October 5, 2007.

3. Since the Ninth Circuit had not decided *Norman*, on October 4, 2007, the Court continued the hearing on the cross-motions to December 14, 2007.

4. At this time, the Ninth Circuit has not decided *Norman*. The Ninth Circuit has not even scheduled oral argument.

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1           5.       For the foregoing reasons, the parties request that the hearing on the cross-motions  
2 for summary judgment be vacated. The hearing may be renoticed after the Ninth Circuit has  
3 rendered its decision in *Norman*.

4           6.       The parties suggest that the case be scheduled for a further case management  
5 conference on March 28, 2008, at 10:30 a.m.

6  
7 Dated: 12/06/07

  
DON PAUL BADGLEY  
Badgley-Mullins Lew Group  
Attorney for Plaintiffs

SCOTT N. SCHOOLS  
United States Attorney

12 Dated:

13 DAVID L. DENIER  
14 Assistant United States Attorney  
15 Tax Division  
Attorneys for United States of America

16 ORDER

17 Pursuant to the stipulation of the parties and for good cause shown, the Court hereby  
18 vacates the hearing on the parties' cross-motions for summary judgment scheduled for December  
19 14, 2007, and schedules the case for a further case management conference on March 28, 2008,  
20 at 10:30 a.m. The parties are directed to file a joint case management statement by March 21,  
21 2008.

22 ORDERED, this 12TH day of December, 2007, at San Jose, California.

23  
24 Dated: 12/12/07

  
JEREMY FOGEL  
UNITED STATES DISTRICT JUDGE

6. The parties suggest that the case be scheduled for a further case management conference on March 28, 2008, at 10:30 a.m.

Dated:

**DON PAUL BADGLEY**  
Badgley-Mullins Lew Group  
Attorney for Plaintiffs

SCOTT N. SCHOOLS  
~~United States Attorney~~

Dated:

12/6/07

**DAVID L. DENIER**  
Assistant United States Attorney  
Tax Division  
Attorneys for United States of America

## ORDER

Pursuant to the stipulation of the parties and for good cause shown, the Court hereby vacates the hearing on the parties' cross-motions for summary judgment scheduled for December 14, 2007, and schedules the case for a further case management conference on March 28, 2008, at 10:30 a.m. The parties are directed to file a joint case management statement by March 21, 2008.

ORDERED, this \_\_\_\_\_ day of December, 2007, at San Jose, California.

Dated:

JEREMY FOGEL  
UNITED STATES DISTRICT JUDGE